

REMARKS

I. Status of the Application

Claims 1-5, 7, and 11-46 are currently presented to the Examiner. The Examiner has rejected claims 1-5, 7, and 11-44 under 35 U.S.C. § 103(a) as being unpatentable under Showa Denko KK JP 62096408 (hereinafter “Showa Denko”) in view of U.S. Patent No. 4,775,525 (hereinafter “Pera”). As explained below, Applicant respectfully traverses this rejection and requests withdrawal of the same.

Applicant has amended claim 18 to correct the informality present in this claim, specifically, the claim’s listing of “abrasives” in duplicate. In light of this amendment, Applicant respectfully requests withdrawal of the objection. Applicant has also amended claim 1 to more clearly define and distinctly characterize Applicant’s invention. Specifically, claim 1 has been amended to more particularly classify the tartar control agent of the claimed invention as a “pyrophosphate, tripolyphosphate, or polyphosphate” tartar control agent. Support for the addition of “a pyrophosphate, tripolyphosphate, or polyphosphate” tartar control agent can be found in the specification at least at page 3, lines 8-14 and page 13, lines 8-15. Therefore, the amendments presented herein add no new matter

New claims 45 and 46 also do not present new matter. Support for the addition of claim 45 can be found in the specification at least at page 8, lines 22-28 and page 9, lines 1-15. Furthermore, support for the addition of claim 46 can be found in the specification at least at page 8-14.

Applicant respectfully requests entry and consideration of the foregoing amendments and remarks, which are intended to place this case in condition for allowance.

II. Rejection under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-5, 7, and 11-44 under 35 U.S.C. § 103(a) as obvious in light of Showa Denko in view of Pera. However, it is respectfully submitted that the Examiner has failed to make a *prima facie* case of obviousness with regard to claims 1-5, 7, and 11-44 because neither Showa Denko nor Pera, alone or in combination, disclose or suggest the presently claimed invention.

The Pending Application discloses an oral care composition comprising a carrier and a pyrophosphate, tripolyphosphate, or polyphosphate tartar control agent combined with an ascorbyl-2-phosphate compound. The Pending Application further discloses the concentration of the tartar control agent in the oral care composition, as well as the pH of the oral care composition.

In contrast, Showa Denko merely teaches L-ascorbic acid-2-phosphate compositions that are useful for preventing and treating periodontosis, cleaning the oral cavity, eliminating halitosis, and freshening the mouth. Showa Denko does not teach or suggest the use of pyrophosphate, tripolyphosphate, or polyphosphate tartar control agents in conjunction with ascorbyl-2-phosphate compositions. In fact, Showa Denko does not teach or suggest any use of tartar control agents. Showa Denko also does not teach or suggest the pH of its compositions. Consequently, Showa Denko cannot teach or suggest the composition outlined in the Pending Application as it does not disclose compositions that comprise an ascorbyl-2-phosphate compound, along with a carrier and a pyrophosphate, tripolyphosphate, or polyphosphate tartar control agent. For all of the aforementioned reasons, amended claim 1 is allowable over Showa Denko.

The composition described in the Pending Application is also not obvious even when Showa Denko is combined with Pera. Pera discloses a composition containing sodium alginate, which reduces and inhibits plaque formation. Pera does not disclose or suggest an oral care composition comprising a carrier and a pyrophosphate, tripolyphosphate, or polyphosphate tartar control agent combined with an ascorbyl-2-phosphate compound. Consequently, amended claim 1 is allowable over Pera.

Furthermore, there is no suggestion to combine these references. In fact, even if one skilled in the art combined Showa Denko with Pera, such a combination would not achieve the composition of the Pending Application as neither Showa Denko nor Pera suggest the use of polyphosphates as tartar control agents. Consequently, because a combination of Showa Denko and Pera does not render obvious the composition disclosed in the Pending Application, amended claim 1 is allowable.

Claims 2-5, 7, and 11-44 depend from independent, amended claim 1. Therefore, the patentability of amended claim 1 over the prior art establishes the patentability of claims 2-5, 7, and 11-44. Further, none of the references teach or suggest the limitations recited in claims 2-5, 7, and 11-44, either alone or in combination.

III. New Claims

Applicant is adding new claim 45. Since new claim 45 depends on amended claim 1, and in light of the arguments outlined above, Applicant believes that new claim 45 is allowable.

Applicant is also adding new claim 46. Applicant believes that new claim 46 is allowable as neither Showa Denko nor Pera, alone or in combination, disclose or suggest an oral care composition comprising a carrier and a pyrophosphate, tripolyphosphate, or polyphosphate tartar

control agent combined with an ascorbyl-2-phosphate compound. Therefore, Applicant feels that claim 46 is also allowable.

IV. Conclusion

With entry of the above amendment and in view of the foregoing remarks, it is respectfully submitted that claims 1-5, 7, and 11-46 are in condition for allowance.

None of Applicant's amendments or cancellations are to be construed as dedicating any such subject matter to the public, and Applicant reserves all rights to pursue any such subject matter in this or a related patent application.

It is respectfully submitted, in view of the foregoing Amendment and Remarks, that all of the objections and rejections in the Office Action dated April 21, 2004 have been overcome and should be withdrawn. Applicant respectfully requests early and favorable notification to that effect. The Examiner is encouraged to contact the undersigned with any questions or to otherwise expedite prosecution.

Respectfully submitted,

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